



General Assembly

Substitute Bill No. 6518

January Session, 2009

* _____HB06518GL_____031009_____*

AN ACT CONCERNING THE FAIR PRICING OF GASOLINE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2009*) (a) (1) Notwithstanding any
2 other provision of the general statutes, no person engaged in the
3 business of furnishing gasoline to a reseller or retail gas station in this
4 state shall use a pricing system under which the wholesale price paid
5 for such gasoline by such reseller or retail gas station is determined
6 based on the geographic location of such reseller or retail gas station or
7 any other pricing system that would prevent resellers or retail gas
8 stations from paying lower prices on an equal basis with other resellers
9 or retail gas stations in this state. No such person shall discriminate in
10 the price of such gasoline charged to a reseller or retail gas station in
11 this state, except to recover actual transportation costs. Such person
12 may offer volume discounts, as determined by such person from time
13 to time, provided if any such volume discounts are offered to one such
14 reseller or retail gas station for specified sales volumes, such volume
15 discounts shall be offered on equal terms and conditions by such
16 person to all of its resellers or retail gas stations who meet or exceed
17 such specified sales volumes. When offered, all such volume discounts
18 shall be disclosed, in writing, by such person to such reseller or retail
19 gas station and all such volume discounts, specified sales volumes and
20 the time period for which they are offered shall be listed as a separate
21 line item entry on each invoice to each reseller or retail gas station

22 accepting such offer.

23 (2) For purposes of this section, "reseller" means an individual,
24 partnership, corporation, limited liability company, association or
25 other entity, including, but not limited to, a manufacturer, refiner,
26 supplier, wholesaler, hauler, blender, agent, jobber or distributor who
27 supplies gasoline intended for immediate or eventual resale to
28 consumers in this state.

29 (3) For purposes of this section, "retail gas station" means an
30 individual, partnership, corporation, limited liability company,
31 association or other entity that sells gasoline directly to consumers
32 from a fixed physical location.

33 (4) A reseller may modify the price such reseller charges a retail gas
34 station for gasoline, without offering such price modification to other
35 retail gas stations, provided: (A) Such reseller provides a loan or other
36 financial accommodation for the construction, repair or maintenance of
37 capital improvements located at the retail gas station, including, but
38 not limited to, the construction, installation, repair, removal or
39 maintenance of underground gasoline tanks, overhead canopies,
40 gasoline pumps and the improvement or altering of the appearance
41 and functionality of any convenience store operated at the retail gas
42 station, (B) such loan or other financial accommodation is financed by
43 such retail gasoline station through payment to such reseller of a
44 modified price for gasoline purchased by such retail gas station, and
45 (C) such modified price for gasoline purchased by such retail gas
46 station solely and directly correlates to the amount of such loan or
47 other financial accommodation.

48 (5) In the event a reseller modifies a price the reseller charges a retail
49 gas station for gasoline pursuant to subdivision (4) of this subsection,
50 the reseller shall document the following, in writing: (A) The terms of
51 any associated loan or other financial accommodation between the
52 reseller and the retail gas station, (B) the purpose of the loan or other
53 financial accommodation, (C) evidence that the purpose of the loan or

54 other financial accommodation has been fulfilled, (D) the price the
55 retailer would have charged the retail gas station for the gasoline if the
56 loan or other financial accommodation had not been made to the retail
57 gas station, and (E) the price the retail gas station is paying for the
58 gasoline because the loan or other financial accommodation was made
59 to the retail gas station.

60 (b) Each person engaged in the business of furnishing gasoline
61 pursuant to subsection (a) of this section shall keep and maintain
62 written or electronic records for not less than five years for each sale of
63 gasoline to a reseller or retail gas station in this state. Such records
64 shall include, but not be limited to, the date and time of sale, name of
65 purchaser and seller, delivery or purchase location of such gasoline,
66 the amount, price and specified sales volume discount of all gasoline
67 sold to such reseller or retail gas station and any volume discounts
68 offered pursuant to subsection (a) of this section.

69 (c) The records kept and maintained pursuant to subsection (b) of
70 this section may, from time to time and within available resources and
71 upon prior written request, be inspected by the Commissioner of
72 Consumer Protection and the Attorney General or by their duly
73 authorized representatives. If a person fails to supply such records
74 within five business days after receiving a written request for such
75 records pursuant to this subsection, such person shall forfeit and pay
76 to the state a civil penalty of not more than one thousand dollars per
77 day for each day the submission of such records is refused or delayed.
78 The Attorney General, acting in the name of the state, may petition for
79 recovery of such penalties.

80 (d) Records provided pursuant to subsection (c) of this section shall
81 be considered confidential and proprietary trade secret information
82 and shall be held in confidence by the Commissioner of Consumer
83 Protection and the office of the Attorney General and shall not be
84 released to third parties except by court order or with the written
85 consent of the person who kept and maintained such records.

86 (e) The Attorney General may bring a civil action in the superior
87 court for the judicial district of Hartford against any person who
88 violates any provision of this section to recover a civil penalty of not
89 more than twenty-five thousand dollars per violation and such
90 equitable relief as the court deems appropriate.

91 Sec. 2. Section 42-234 of the general statutes is repealed and the
92 following is substituted in lieu thereof (*Effective October 1, 2009*):

93 (a) As used in this section:

94 (1) "Energy resource" shall include, but not be limited to, middle
95 distillate, residual fuel oil, motor gasoline, propane, aviation gasoline
96 and aviation turbine fuel, natural gas, electricity, coal and coal
97 products, wood fuels and any other resource yielding energy;

98 (2) "Seller" shall include, but not be limited to, a supplier,
99 wholesaler, distributor or retailer involved in the sale or distribution in
100 this state of an energy resource;

101 (3) "Abnormal market disruption" refers to any stress to an energy
102 resource market resulting from weather conditions, acts of nature,
103 failure or shortage of a source of energy, strike, civil disorder, war,
104 national or local emergency, oil spill or other extraordinary adverse
105 circumstance; and

106 (4) "Margin" means the excess percentage of a motor gasoline seller's
107 selling price for such gasoline over the price such seller paid for such
108 gasoline.

109 (b) No seller during any period of abnormal market disruption or
110 during any period in which an imminent abnormal market disruption
111 is reasonably anticipated shall sell or offer to sell an energy resource
112 for an amount that represents an unconscionably excessive price.

113 (c) Evidence that (1) the amount charged represents a gross
114 disparity between the price of an energy resource that was the subject

115 of the transaction and the price at which such energy resource was
 116 sold or offered for sale by the seller in the usual course of business
 117 immediately prior to (A) the onset of an abnormal market disruption,
 118 or (B) any period in which an imminent abnormal market disruption is
 119 reasonably anticipated, and (2) the amount charged by the seller was
 120 not attributable to additional costs incurred by the seller in connection
 121 with the sale of such product, shall constitute prima facie evidence that
 122 a price is unconscionably excessive.

123 (d) Notwithstanding the provisions of subsections (b) and (c) of this
 124 section, it shall not be a violation of this section if a seller sells or offers
 125 to sell motor gasoline during an abnormal market disruption or any
 126 period in which an imminent abnormal market disruption is
 127 reasonably anticipated if the seller's margin for such motor gasoline is
 128 equal to or not greater than such seller's maximum margin on the sale
 129 of such motor gasoline during the ninety-day period prior to the onset
 130 of the abnormal market disruption or period in which an imminent
 131 abnormal market disruption is reasonably anticipated.

132 ~~[(d)]~~ (e) This section shall not be construed to limit the ability of the
 133 Commissioner of Consumer Protection or the courts to establish
 134 certain acts or practices as unfair or unconscionable in the absence of
 135 abnormal market disruptions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	42-234

GL *Joint Favorable Subst.*